IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2006

CORAM :

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

WRIT PETITION NO.45004 of 2006

& MP.NO.1 OF 2006

Rallis India Limited rep.by its
Deputy General Manager B.Sriram
Chennai-92. ..Petitioner

Vs

1.The Commercial Tax Officer,
Porur Assessment Circle,
Chennai-87.

2.The Deputy Commissioner (CT)
Chennai (South) Division,
PAPJM Buildings, II Floor
Greams Road, Chennai-6.

3.The Joint Commissioner of
Commercial Taxes (R.P.)
Chepauk, Chennai-5. ..Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Mandamus forbearing the first respondent herein from resorting to recovery proceedings dated 6.4.2006 for the interest amount levied under Section 24(3) of the Tamilnadu General Sales Tax Act of Rs.8,57,609/- for which a revision is pending in R.P.No.51/2006 before the third respondent herein.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.A.Shanmugasundaram, GA

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O R D E R

Mr.A.Shanmugasundaram, learned Government Advocate takes notice. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. Petitioner has put in issue the demand notice dated 6.10.2006 wherein a sum of Rs.8,57,609/- for the assessment year 1999-2000 and

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a sum of Rs.7,70,496/- for the assessment year 2001-2002, in total, a sum of Rs.16,28,105/- has been demanded from the petitioner towards interest under Section 24(3) of the Tamilnadu General Sales Tax Act. The writ petition has been filed questioning the correctness of that portion of the order in respect of the assessment year 1999-2000.

3. It is the case of the petitioner that as against the assessment order in respect of the assessment year 1999-2000, the petitioner filed an appeal before the Appellate Assistant Commissioner (CT) VI, Chennai. The said appeal was disposed of by partly dismissing the appeal and for the remaining portion of the order of assessment, a remand order has been passed. As against that portion of the order, which went against the petitioner - assessee, the petitioner filed an appeal before the Sales Tax Appellate Tribunal on 3.7.2006 and the same is pending. In respect of the remanded portion of the order, the Assessing Officer, once again, confirmed his earlier order and that order was carried on appeal by filing an appeal before the First Appellate Authority on 6.9.2006 and the same is also pending. When the appeals are pending before the Second Appellate Authority as well as the First Appellate Authority respectively, the present notice has been issued calling upon the petitioner to pay interest under Section 24(3) of the said Act.

4. Section 24(3) of the said Act provides that where an assessee preferred an appeal or a revision against any order of assessment or revision of assessment under the said Act, the interest payable under Section 24(3) of the said Act in respect of the amount in dispute in the appeal or revision shall be postponed till the disposal of the appeal or revision as the case may be and shall be calculated on the amount that becomes due in accordance with the final order passed on the appeal or revision as if that amount has been specified in the order of assessment or revision of assessment, as the case may be.

5. Thus, payment of interest has to be considered after disposal of the appeals stated to have been filed before the authorities concerned. But, one crucial aspect of the matter is that from the impugned notice, it cannot be discerned that the Assessing Officer was made known about the pendency of the appeals. It is contended by the learned counsel for the petitioner that the factum of pendency of the appeals in respect of the remanded portion of the order before the First Appellate Authority and in respect of the dismissal portion of the order before the Second Appellate Authority was informed to him. Though such an argument was made, in the notice it is not reflected.

6. In order to render justice, the petitioner is directed to produce relevant materials before the Assessing Officer - the first respondent within ten days from today to establish that the appeals are pending as stated above. If such materials are produced, the

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first respondent is directed to keep in abeyance the impugned notice till final orders are passed in the appeals and thereupon proceed further depending upon the outcome of the appeals. In other words, if the petitioner does not produce the materials as directed above, it is open to the first respondent to proceed further in accordance with law and recover the entire amount.

7. With the above directions, the writ petition disposed of. NO costs. Consequently, the above MP is dismissed.

RS

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1.The Commercial Tax Officer, Porur Assessment Circle, Chennai-87.

2.The Deputy Commissioner (CT) Chennai (South) Division,
PAPJM Buildings, II Floor, Greams Road, Chennai-6.

3.The Joint Commissioner of Commercial Taxes (R.P.), Chepauk,
Chennai-5.

1 CC TO THE SPL. GOVT. PLEADER (TAXES),CHENNAI-104. SR 56884

1 CC TO MR.N. INBARAJAN, ADVOCATE SR 56626

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AND MP.NO.1 OF 2006

LA(CO)

BP/4.12 22.11.2006

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